



3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Trademark Trial and Appeal Board (TTAB) Actions

ACTION: Notice of an extension of a currently approved information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0040 (Trademark Trial and Appeal Board (TTAB) Actions).

DATES: Written comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651–0040 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to LaToya Brown, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272-4283; or by email to LaToya.Brown@uspto.gov with “0651–0040 comment” in the subject line. Additional

information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, Sections 13, 14, and 20, 15 U.S.C. 1063, 1064, and 1070, respectively. Under the Trademark Act, any individual or entity that adopts a trademark or service mark to identify their goods or services may apply to federally register their mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark, while Section 13 allows individuals and entities who believe that they would be damaged by the registration of a mark to file an opposition, or an extension of time to file an opposition, to the registration of a mark. Section 20 of the Trademark Act allows individuals and entities to file an appeal from any final decision of the Trademark Examining Attorney assigned to review an application for registration of a mark.

The USPTO administers the Trademark Act of 1946 through the regulations at 37 CFR Part 2, which contains the various rules that govern the filings identified above and other submissions filed in connection with inter partes and ex parte proceedings. These petitions, notices, extensions, and additional papers are filed with the Trademark Trial and Appeal Board (TTAB), an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark.

The information in this collection must be submitted electronically through the Electronic System for Trademark Trials and Appeals (ESTTA). If applicants or entities wish to

submit the petitions, notices, extensions, and additional papers in inter partes and ex parte cases, they must use the forms provided through ESTTA.

The responses in this information collection is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, as both common law trademark owners and federal trademark registrants must actively protect their own rights.

II. Method of Collection

Items in this information collection may be submitted via mail, hand delivery, or electronic submission.

III. Data

OMB Number: 0651–0040.

Form Number(s):

- PTO 2188 (Petition for Cancellation)
- PTO 2120 (Notice of Opposition)
- PTO 2153 (Request for Extension of Time to File an Opposition)
- PTO 2151 (Papers in Inter Partes Cases)
- PTO 2190 (Notice of Appeal)
- PTO 2189 (Ex Parte Appeal General Filing)

Type of Review: Revision of a currently approved information collection.

Affected Public: Private sector; individuals and households.

Estimated Number of Respondents: 70,475 respondents. The USPTO estimates that the majority (95%) of respondents will be from the private sector, but that about 5% will be individuals and households.

Estimated Number of Responses: 83,100 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from 10 to 30 minutes (0.17 to 0.50 hours), depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information required for this information collection.

Estimated Total Annual Respondent Burden Hours: 21,133 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$5,798,746. The USPTO estimates that it will take a combined effort by attorneys and paraprofessional/ paralegals to complete the requirements in this information collection. The hourly rate for attorneys is \$400, published in the 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPLA). The hourly rate for paraprofessional/ paralegals is \$145 as published in the 2018 [Utilization and Compensation Survey](#) by the National Association of Legal Assistants (NALA). After calculating the average of these rates, the USPTO estimates that the hourly rate will be \$272.50. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection will be \$5,798,746 per year.

Table 1: Burden Hour/Burden Cost to Respondents (Private Sector)

Item #	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition to Cancel	Same as line 4	2,660	0.50	1,330	\$272.50	\$362,425
2	Notice of Opposition	Same as line 4	7,030	0.50	3,515	\$272.50	\$957,838
3	Request for Extension of Time to File an Opposition	20,425	20,425	0.17	3,472	\$272.50	\$946,120
4	Submissions in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Oral hearing requests • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	39,900	39,900	0.25	9,975	\$272.50	\$2,718,188
5	Notice of Appeal	Same as line 6	3,325	0.25	831	\$272.50	\$226,448
6	Miscellaneous Ex Parte Submissions <ul style="list-style-type: none"> • Appeal Briefs • Requests to extend time to file Appeal Briefs • Oral hearing requests 	5,605	5,605	0.17	953	\$272.50	\$259,693

Item #	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
	Totals	65,930	78,945	- - -	20,076	- - -	\$5,510,712

Table 2: Burden Hour/Burden Cost to Respondents (Individual and Households)

Item #	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition to Cancel	Same as line 4	140	0.50	70	\$272.50	\$19,075
2	Notice of Opposition	Same as line 4	370	0.50	185	\$272.50	\$50,413
3	Request for Extension of Time to File an Opposition	1,075	1,075	0.17	183	\$272.50	\$49,868
4	Submissions in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Oral hearing requests • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	2,100	2,100	0.25	525	\$272.50	\$143,063
5	Notice of Appeal	Same as line 6	175	0.25	44	\$272.50	\$11,990

6	Miscellaneous Ex Parte Submissions						
	<ul style="list-style-type: none"> • Appeal briefs • Requests to extend time to file appeal briefs • Oral hearing requests 	295	295	0.17	50	\$272.50	\$13,625
	Totals	3,470	4,155	- - -	1,057	- - -	\$288,034

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$6,611,590.70. There are no capital start-up, maintenance, or record keeping costs associated with this information collection. However there are fees which are listed in the table below.

Table 3: Filing Fees

#	Item	Estimated Annual Responses	Filing fee (\$)	Total Non-hour Cost Burden (\$)
1	Petition to Cancel (Paper Submission)	6	\$500.00	\$3,000.00
1	Petition to Cancel	2,794	\$400.00	\$1,117,600.00
2	Notice of Opposition (Paper Submission)	15	\$500.00	\$7,500.00
2	Notice of Opposition	7,385	\$400.00	\$2,954,000.00
3	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed (Paper Submission)	7	\$300.00	\$2,100.00
3	Ex Parte Appeal to the Trademark Trial and Appeal Board	3,493	\$200.00	\$698,600.00
4	Request for Extension of Time to File an Opposition under §2.102(c)(3) (Paper Submission)	5	\$200.00	\$1,000.00
4	Request for Extension of Time to File an Opposition under §2.102(c)(3)	10,960	\$100.00	\$1,096,000.00
5	Request for Extension of Time to File an Opposition under §2.102(c)(1)(ii) or (c)(2) (Paper Submission)	5	\$300.00	\$1,500.00
5	Request for Extension of Time to File an Opposition under §2.102(c)(1)(ii) or (c)(2)	3,650	\$200.00	\$730,000.00
Total	- - -	28,320	- - -	\$6,611,300.00

Express or first-class mail through the United States Postal Service or hand delivery to the TTAB is only available under extraordinary circumstances. The USPTO estimates that the average first-class postage cost for a mailed submission will be \$7.65 (1-ounce flat 9"x12" envelope) and that approximately 32 submissions will be mailed to the USPTO per year.

Therefore, the total (non-hour) respondent cost burden for this information collection is estimated to be \$6,611,590.70 which includes \$6,611,300 in filing fees and \$290.70 in postage.

IV. Request for Comments

The USPTO is soliciting public comments to:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO

will include or summarize each comment in the request to OMB to approve this information collection. Before including your address, phone number, email address, or other personal identifying information in a comment, you should be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

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